

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH**

**COURT – IV**

7.

**IA-3414(MB)2024 IN  
C.P. (IB)/3591(MB)2019**

CORAM:

MS. ANU JAGMOHAN SINGH  
MEMBER (Technical)

SHRI KISHORE VEMULAPALLI  
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON 03.07.2024

NAME OF THE PARTIES:

Ms Shilpa Interiors  
Vs.

Wadhawan Holding Private Limited

SECTION: 9, 60(5) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016.

**ORDER**

**IA-3414(MB)2024**

1. Mr. Gaurav Joshi a/w Mr. Shyam Kapadia, Ms. Anamika Singh, Ms. Grishma Dalvi and Mr. Kushal Bhoorchandani i/b Induslaw, Ld. Counsel for the Applicant present. Mr. Prateek Saksaria a/w Nishant i/b Adv. Aniruth Purusothaman, Ld. Counsel for the Respondent present.
2. This is an application filed by the Applicant, J.C. Flowers Asset Reconstruction Pvt. Ltd. u/s. 60(5) of the IBC, 2016 seeking following reliefs:
  - “a) Allow the present IA and list the Application (IA No.1655 of 2024) for urgent hearing on the earliest convenient date available with this Hon’ble Tribunal.*
  - b) Stay the CIRP of the Corporate Debtor pending the final hearing and disposal of the Application.”*
3. Ld. Counsel for the Applicant submits that the CoC has passed a resolution in its 2<sup>nd</sup> meeting which was held on 17.01.2024. The Deemed

Resolution Professional informed the CoC Members that in accordance with the Provisions of Regulation 19(1) of IBBI (Insolvency Resolution Process for Corporate Debtor) Regulations, 2016, 5 days' notice is required for convening the CoC meeting. It was also informed that the CoC meeting will be called with shorter notice only in the event when the CoC members agree and the agenda items are urgent to be deliberated. In all other cases, the undersigned will provide an adequate notice period to the members of CoC. The members of CoC took note of the same.

4. Based on their resolution, the RP intimated on 02.07.2024 at 5.30 PM for conducting the meeting of CoC on 03.07.2024 at 5.30 PM. Immediately, the Applicant addressed an email to the RP on the same day at 18.44 Hrs. intimating that they are opposing to conduct the meeting on 03.07.2024 at 5.30 PM. The Counsel submits that the CoC is approving the plan whereas their objection for consideration of the claim petition is pending before this Bench for adjudication. Hence, they raised their objections for conducting the CoC meeting on 03.07.2024 with short notice of 24 hours. It is submitted that as per minutes, it is categorically stated that, the CoC meeting can be conducted with the short notice of 24 hours with consent of all the CoC members. Hence, Applicant prayed for granting stay of approval of the plan by the CoC members in the meeting which is scheduled to be held on 03.07.2024 at 5.30 PM.
5. Ld. Counsel for the RP vehemently opposed and stated that as per the resolution, CoC has a right to conduct their meetings at short notice and take necessary decision.
6. Heard ld. Counsel for the parties and perused the records.

7. This Bench is of the considered view that the IA regarding the claim of Applicant is pending adjudication before this Bench and once the plan is approved, the Applicant will not have recourse to justice regarding their claim. Hence, this Bench is inclined to pass orders directing the members of the CoC not to e-vote and approve the plan till 10.07.2024 when the IA for the claim of Applicant is listed.
8. List this IA for further consideration on **10.07.2024**.

**Sd/-**  
**ANU JAGMOHAN SINGH**  
**Member (Technical)**

**Sd/-**  
**KISHORE VEMULAPALLI**  
**Member (Judicial)**